

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 2

BY ESKRIDGE AND ANDERSON

AN ACT

RELATING TO PROPERTY TAX; AMENDING CHAPTER 6, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-602MM, IDAHO CODE, TO EXEMPT FROM THE PROPERTY TAX ANY INCREASE IN EXCESS OF THREE PERCENT PER YEAR IN THE NET TAXABLE VALUE OF REAL PROPERTY OR OPERATING PROPERTY OF A TAXPAYER, TO PROVIDE TAX YEAR 2007 AS THE BASE YEAR, TO PROVIDE THE EFFECT OF A CHANGE OF TAX STATUS OR TAX EXEMPTION, TO PROVIDE DEFINITIONS, TO PROVIDE PROCEDURES FOR PERSONS ACTING IN CONCERT, TO PROVIDE THAT THE PROPERTY INCLUDED IN THE CALCULATION OF THE EXEMPTION SHALL INCLUDE EACH PARCEL OF REAL PROPERTY OWNED BY THE TAXPAYER, TO PROVIDE WHEN A SALE OR TRANSFER SHALL NOT BE DEEMED TO HAVE OCCURRED, TO PROVIDE CIRCUMSTANCES WHEN PROPERTY ACQUIRES A NEW TAXABLE VALUE, TO PROVIDE THAT THE EXEMPTION DOES NOT APPLY TO FOREST LANDS, TO PROVIDE THAT THE LEGISLATURE DECLARES THE EXEMPTION NECESSARY AND JUST AND TO PROVIDE FOR RULES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 6, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-602MM, Idaho Code, and to read as follows:

63-602MM. PROPERTY EXEMPT FROM TAXATION – NET TAXABLE VALUE INCREASES ABOVE A CERTAIN PERCENTAGE. (1) Any increase in excess of three percent (3%) per year in the net taxable value of real property or operating property, based on the property's taxable value for tax year 2007, shall be exempt from property taxation and any special assessment as long as the taxpayer continues to own the property and the property continues to maintain its tax exemption or tax status. If a property's tax exemption or tax status changes during a year, the owner of the property shall be liable to have the property valued and taxed according to fair market value. If the taxable value of real property or operating property increases less than three percent (3%) in a year, then the value of the real property or operating property shall be increased by the amount that the assessment increased. "Sale" or "transfer" means any conveyance of title to real property or operating property, or any estate or interest therein, for a consideration, and any contract for such conveyance. The term "sale" or the term "transfer" also includes the grant, assignment, quitclaim, sale or transfer of improvements constructed upon leased land. The term "sale" or the term "transfer" also includes the transfer or acquisition within any twelve (12) month period of a controlling interest in any entity with an interest in real property or operating property located in this state for a consideration. For purposes of this section all acquisitions by persons acting in concert shall be aggregated for

purposes of determining whether a transfer or acquisition of a controlling interest has taken place. The state tax commission shall promulgate rules to determine when persons are acting in concert. In adopting a rule for this purpose, the state tax commission shall consider the following:

(a) Persons shall be treated as acting in concert when they have a relationship with each other such that one (1) person influences or controls the actions of another through common ownership; and

(b) When persons are not owned or controlled through common ownership, they shall be treated as acting in concert only when the entity, with which the purchasers have negotiated and will consummate the transfer of ownership interest, supports a finding that they are acting as a single entity.

If the acquisitions are completely independent, with each purchaser buying without regard to the identity of the other purchasers, then the acquisitions shall be considered separate acquisitions.

(2) As used in this section, a sale or transfer of property shall not be deemed to have occurred if the following happens:

(a) A transfer of a mortgage or other interest in real property or operating property merely to secure a debt, or the assignment thereof;

(b) A transfer of title to or from the United States, any territory or state or any agency, department, instrumentality or political subdivision thereof;

(c) A transfer of title between spouses, including gifts;

(d) A transfer of title between former spouses in compliance with the decree of divorce;

(e) Transfers, assignments or conveyances of unpatented mines or mining claims;

(f) A transfer, assignment or other conveyance of real property or operating property to a corporation or other business organization if the person conveying the real property or operating property owns one hundred percent (100%) of the corporation or organization to which the conveyance is made;

(g) The making, delivering or filing of conveyances of real property or operating property to make effective any plan of reorganization or adjustment:

(i) Confirmed under the bankruptcy act, as amended, title 11 of U.S.C.;

(ii) Approved in an equity receivership proceeding involving a corporation, as defined in the bankruptcy act; or

(iii) Whereby a mere change in identity, form or place or organization is effected, such as a transfer between a corporation and its parent corporation, a subsidiary or an affiliated corporation, if the making, delivering or filing of instruments of transfer or conveyance occurs within five (5) years after the date of the confirmation, approval or change;

(h) A transfer of real property or operating property into a trust as long as the owner or owners have control of the trust; or

(i) The exchange of real property or operating property held for productive use in a trade or business or for investment if such property is exchanged solely for property of like kind which is to be held either for productive use in a trade or business or for investment, and if such exchange qualifies as a nontaxable exchange pursuant to 26 U.S.C. section 1031.

(3) When title to the real property or operating property changes by sale or inheritance except as provided in subsection (2) of this section, then the real property or operating property

1 shall acquire a new taxable value equal to the market value at the time of the transfer. When  
2 improvements in excess of one thousand dollars (\$1,000) are made to the property, the property  
3 shall acquire a new taxable value equal to the value of the improvements added to the prior  
4 taxable value. When property is sold or transferred or improvements in excess of one thousand  
5 dollars (\$1,000) are made to the property, it is the duty of the owner to notify the county  
6 assessor with either the sales price of the property or the cost of the improvements. Failure to  
7 notify the county assessor of such fact or facts may result in the removal of exemption from the  
8 property pursuant to this section. The property included in the calculation of the exemption set  
9 forth in this section shall include each parcel of real property owned by the taxpayer. Property  
10 of a taxpayer assessed pursuant to chapter 17, title 63, Idaho Code, shall not be eligible for the  
11 exemption provided by this section. Any increase provided by this section shall be taken after  
12 taking any other exemption otherwise provided by law.

13 (4) The legislature declares this exemption to be necessary and just.

14 (5) The state tax commission shall adopt all rules that may be necessary to implement the  
15 provisions of this section.

16 SECTION 2. An emergency existing therefor, which emergency is hereby declared to  
17 exist, this act shall be in full force and effect on and after its passage and approval, and  
18 retroactively to January 1, 2009.